THE DECALOGUE JOURNAL

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The Life Of The Law

The life of the law has not been logic: it has been experience. The felt necessities of the time, the prevalent moral and political theories, intuitions of public policy, avowed or unconscious, even the prejudices which judges share with their fellow-men, have had a good deal more to do than the syllogism in determining the rules by which men should be governed. The law embodies the story of a nation's development through many centuries, and it cannot be dealt with as if it contained only the axioms and corollaries of a book of mathematics. In order to know what it is, we must know what it has been, and what it tends to become. We must alternately consult history and existing theories of legislation. But the most difficult labor will be to understand the combination of the two into new products at every stage. The substance of the law at any given time pretty nearly corresponds, so far as it goes, with what is then understood to be convenient; but its form and machinery, and the degree to which it is able to work out desired results, depend very much upon its past.

The Common Law
Justice Oliver Wendell Holmes

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IN THIS ISSUE

HEBREW UNIVERSITY RECEIVES $2000 FROM SOCIETY

President Bernard H. Sokol received last month a letter of appreciation from Professor S. Ginossar, Dean of The Hebrew University, Jerusalem, acknowledging the receipt of $2000 raised by our Society for this Israeli institution. Dean Ginossar stated that the funds will be used for the publication of a book on international law, written in English, by Professor A. V. Levontin of The Hebrew University.

This fund was raised by individual contributions from our members during the presidency of Harry A. Iseberg by a special committee under the co-chairmanship of Nathan Schwartz and Judge Samuel B. Epstein. Originally the funds were intended for a research fellowship in the United States for a graduate of the Law School of the Hebrew University. Because of the urgent need of the Law School for moneys to publish periodicals and law books, the Society has agreed to the use of the fund for the latter purposes.

Samuel N. Katzin, civic leader and head of the Chicago chapter of Friends of The Hebrew University received the moneys from our Society at a luncheon at The Covenant Club, on February 3rd.

DECALOGUE 1956 OUTING JULY 11

The popularity of Chevy Chase Country Club as an outing playground for the Decalogue annual outdoor affair has made it again the best choice for the Society's twenty-second all day Summer gala occasion, on Wednesday, July 11. Chevy Chase possesses unsurpassed facilities for the enjoyment of members, their families and guests. Located on Milwaukee Avenue, near Wheeling, it has in addition to a magnificent golf course, a swimming pool, gardens and facilities for various games of skill. Arrangements are in progress to provide special programs for the entertainment of lady guests.

Further details regarding the outing will be published in the next issue of The Decalogue Journal.

JUDGE FISHER HONORED

Member Judge Harry M. Fisher was installed as honorary chairman of the Commission on Law and Order of the American Jewish Congress at a luncheon meeting on February 8, at the Covenant Club.

Past president Elmer Gertz presided at the affair.

1955 Decalogue Merit Award

An enthusiastic audience of over seven hundred members and guests voiced strong approval of our choice of Senator Herbert H. Lehman of New York as the recipient of the Society's Award of Merit for 1955.

This year's historic event was celebrated at a banquet in the Palmer House the evening of February 18. President Bernard H. Sokol presided. First Vice-President Morton Schaeffer was chairman of the Arrangements Committee, with Second Vice-President Solomon Jesmer and past president Elmer Gertz as co-chairmen. Rabbi Philip L. Lipis of North Suburban Synagogue Beth El gave the invocation.

Men and women distinguished in the legal profession, judges, heads of Bar Associations in this city and county, clergymen, educators and business leaders sat at the speakers' table and throughout the hall. Among the prominent guests present were William G. Stratton, Governor of the State of Illinois, and Senator Everett McKinley Dirksen, Senator from our State. Both spoke briefly extolling our society's choice of Senator Lehman as recipient of our Award of Merit, and each praised our society for its loftiness of purpose in advancing the best interests of bench, bar, and for our espousal of American ideals.

The twenty-first annual Decalogue Merit Award event is already history. The avalanche of communications received by our president Bernard H. Sokol, from notables in the world of law, legislation, business, and industry all testify to the universal acclaim evoked by our choice of Senator Herbert H. Lehman as the recipient of our 1955 Award. More than fifty letters of commendation were published in the last issue of the Journal. Additional comments appear on pages 10 and 11.

Following are President Bernard H. Sokol's message of welcome, Judge U. S. Schwartz's presentation speech, and Senator Herbert H. Lehman's address, "Progress Report on the fight against the McCarran-Walter Act."

BERNARD H. SOKOL: —Welcome . . .

Tonight we add another pearl to the string. Looking back to previous occasions such as this, the Decalogue Society is proud to have had a part in helping articulate principles which are consistent with the noblest aspects of our country's tradition.

We in Decalogue have been ever mindful that the spiritual is an all important aspect of our lives. Our very reason for existence lies in our wish to translate that spiritual tie into our profession. We believe that the lawyer owes far more to his client than the protection of his property. We believe that the lawyer owes far more to himself than mechanical competence.

We are proud that much of the history of this country was made by men who walked in the way and spoke in the words of the Old Testament. Indeed, the very instruments in which our founding fathers spoke are couched in biblical terms.

If we serve a special purpose, it is not as an instrument of protest, but rather as a stimulus to individual service.

This year we embarked upon a program in which we presented a number of prominent persons in the community who were invited to speak on various aspects of the Bill of Rights, in the hope that we would inspirit individual members of the Society to become more articulate on the subject. We have felt that the lawyer must, as an individual, speak out, particularly in those community areas where the Bill of Rights requires translation and explanation to non-lawyers. We know that if the lawyers themselves cannot translate into understandable terms the wealth, the truth, the profundity in the Bill of Rights, that the community at large will not understand it. We have felt that the Bill of Rights needs to be de-hyphenated. So much of it has been attached to the odious, that many responsible members of the community look upon it as an instrument of evil. If we, who are schooled in the law, cannot make it intelligible to the community, then we abrogate our responsibility.

To speak out, not when it is expedient, but when it is necessary; to join when it is important and not

when it is merely convenient and safe, is of the greatest immediacy. This, I submit, requires courage. This type of courage requires encouragement and support, and it is there where we make our mark. If a society such as ours feels this responsibility more keenly, perhaps, than a general bar association, it is because we are more mindful by tradition and experience that evil needs to be sensed long before it becomes obvious, in order that it can be fought. Only those who watch from the rooftops will see the danger before it strikes.

Our Annual Merit Award Dinner comes not at the end of our work-year as a diploma, but in the center, as part of the curriculum. We point our program to it and take our lesson from it afterwards. It is from our platform that Wendell Willkie's message inspired us with the necessity for realizing the inter-dependence of all people. It was from our platform that Bishop Bernard J. Sheil appealed to us to ennoble our every day efforts and not deprecate them.

From this platform, Albert Einstein, in 1954, told us that our future is written not in the stars, but here on earth, among men.

I make but these few references to what has gone before only to point out the fact that we do not consider this occasion an end in itself. We lawyers have much to do. I pray that we may be equal to the task.

* * *

JUDGE U. S. SCHWARTZ:
—Presentation . . .

This is February. It is an election year. And all over the land the air is ringing with eloquent speeches in which comparisons are made between men of today and the great men of the past. Those who have been likened to Lincoln would fill a metropolitan telephone directory. Right at this moment, somewhere some candidate for alderman or mayor, Democratic or Republican, is being told by an ardent supporter (and perhaps office seeker) that he is another Lincoln. I hesitate to participate in this popular sport and yet the occasion tonight affords a happy opportunity to do so.

Benjamin Franklin has been neglected in this respect, not for lack of honor to his memory but because he was unique and not easily the subject of comparison. He was a businessman and a very successful one. He acquired financial independence hardly midway in his life's journey and thereafter devoted his talents to the service of his country and humanity.

Our honored guest, like Franklin, commenced his career as a businessman. He is familiar with the balance sheet, with the practices of the counting house, but his eyes, while they may have rested there for a time, soon turned to the greater balance sheet—that final balance sheet to be counted not in dollars, but in service rendered to human beings. Herbert Lehman has devoted his life to that high vocation with a rugged constancy and ardor that is also remindful of Franklin.

More than forty years ago he undertook his first great humanitarian assignment—that of directing the collection of a great sum for the relief of Jewish war sufferers in Europe. Since then there has hardly been a moment when he has not been engaged in some enterprise for the public good, culminating perhaps in the greatest of all humane enterprises, the organizations he headed for foreign relief and rehabilitation following the Second World War, in which he and his associates performed the tremendous task of feeding, clothing and finding shelter for the millions whose lives had been disrupted.

Under his leadership as Lieutenant Governor and then Governor of the state of New York, legislation to prevent social and religious discrimination, to provide for the care of the aged, to mitigate the hard life of those who toil—all were effectively enacted. And then, when he had reached what has been considered the end of man's alloted span, he entered the United States Senate, the greatest parliamentary body in the world, where his talents and vigor are today devoted to his country.

For forty years, a normal span of working life, he has worked for the good of others, and now, his vital enthusiasm unabated his keen, alert mind unimpaired, he still stands at Armageddon and battles for the Lord. At this very time he has undertaken perhaps the hardest and the noblest battle of his life, the amendment of those provisions of our immigration law which have for more than a generation been an offence to great groups of our citizens. That is the subject of his talk tonight. I recall the arguments for the first of these measures, the Dillingham-Burnett Bill, glossed over with sometimes vague and sometimes outspoken pronouncements that the disfavored of that law were simply inferior to those favored. Such a law on the statute books of our country is a grinning, sardonic gargoyle, making a mockery of our professions of love of freedom and of equality. It is this modern demon that our embattled champion of seventy-eight has undertaken to slaughter. And even with this undertaking he has not forgotten the other problems of the oppressed, the people from whom he sprang, the Jews who, having found a haven, with great sacrifice and struggle established the little land of Israel, now beset on all sides. He still has time to champion them.

But for all his ardor in a cause he deems to be right, he is a man of moderation. Like Franklin, who stood his ground with unflinching firmness while the tempest whirled about him in the pre-Revolutionary days when he represented the colonies in England, yet avoided bitterness and preserved his friendships, so has it been with Senator Lehman. I consider it no slight compliment to say that he is a man of moderation, although moderation is a fighting word today. What do we mean by moderation when applied to a code of political conduct? I think Judge Learned Hand has given us a searching and profound definition: "It is a temper which does not press a partisan advantage to its bitter end, which can understand and will respect the other side, which feels a unity between all citizens . . . which recognized their common fate, their common aspirations—in a word, which has faith in the sacredness of the individual." It was this spirit of moderation which the people of his state came to know and to understand and which made him the most successful vote-getter in the history of the state of New York, to the surprise of the practical

politicians. It is this spirit which underlies the many instances of generosity to his opponents, of their cooperation with him, and of his reappointment to public office of political adversaries. That same moderation may account, too, for the fact that Look Magazine in a recent survey of the Jews of our country found that there was one whom all would unreservedly approve — Herbert Lehman. But there is nothing of the milk and water in that moderation. I have in mind the picture of Senator Lehman in debate with one of the younger men of the Senate, too well known for his vituperation and abuse in public utterances. That young man, purporting to read from a paper, made a statement which Senator Lehman challenged and then, walking up to him, demanded that he show him the paper from which he purported to read.

It may seem presumptious that a local organization of lawyers should bestow an Award of Merit on a man who has earned world-wide renown, who has time and again been honored by his own state, whom great nations have honored, a man who has walked with the meek and the humble, the mighty and the noble of the earth. But the Award of this Society has come to have a significance among those who value service to humanity and to country. For this Society has faithfully fulfilled the purpose of the Award and has discharged its responsibility with such complete integrity that the Award itself has a value for beyond the worth of those of us who undertake to bestow it. Success has not been its yardstick, nor ability, nor talent, nor even genius. Combined with these must be an abiding compassion for fellow men, a love of country, a seasoned and rugged zeal in the propagation of that faith.

Our Committee has selected wisely and well and never better than in this instance. It is my honor to bestow our Award of Merit upon you, Senator Lehman.

* * *

SEN. HERBERT H. LEHMAN: —Response . . .

I accept your award and thank you for it. It means a great deal to me to receive this evidence that the struggles some of us have been waging in Washington are approved and supported here in the heartland of America.

I have long known of this distinguished Society, with its noble name enshrining in a word the basic rules of goodness and godliness. I have the high privilege of knowing almost all the eminent persons who have received this award before me, and I am proud, indeed, to be included in that great company.

At least one of your members is an old friend, or rather a young friend of mine. I am glad to greet him here in his home town as a rising star in the public firmament, a man in whom brilliance of intellect is aptly joined with integrity of character—Congressman Sidney Yates. It has been a privilege to know and to cherish this dedicated young man. The Decalogue Society and the community should be proud of him.

Tonight I propose to discuss with you a subject in which many of you, I am sure, share a great interest with me—our immigration and citizenship laws. I am going to assume that there are none present whom I need to convince that these laws require amendment and modification tonight. I want to give you my judgment as to the kind of modification that is needed, and the effort it will take to secure that kind of modification.

It should be unnecessary for me to point out that this is not a partisan matter. The support for the McCarran-Walter Act was and is bi-partisan. The opposition to it was and is bi-partisan.

Any successful effort to modify the present law in a significant and meaningful manner can only be a bi-partisan effort. Indeed, this issue is one of those which clearly cuts across party lines and disregards political affiliations.

But this is not to say that political considerations do not enter into the question at all. There are political considerations involved, in a very healthy and democratic way. Today, unlike the situation four years ago, there is an aroused and vigilant citizenry in some parts of the country, demanding changes in the law. So it becomes necessary for the President and members on Congress to take cognizance of the question, and to take a position on it. It now becomes politically impossible to ignore the question. That is the way democracy functions—thank God for that.

I anticipate that reform of our immigration and citizenship laws will be an important issue in the national elections of 1956, but not because all the members of one party are clearly for and the others, clearly against. No, nationally it will be a question of which party has contributed and can contribute most to the substantial revision of present law. It will also be a question, nationally, of what kind of revision will be pledged by each party.

In many districts of the country, there will be lively and intensive discussion of this issue by candidates for Congress, and even for local office. There will be some districts, of course, where this will not be an issue, where no candidate will espouse a change in the law, and where there will be little interest in the subject. But the number of such districts will be far fewer in 1956 than in 1952.

And by this we will be able to measure the great progress that has been made on this front in the past four years.

Yes, we have made great progress in stimulating public interest in this question . . . compared to the situation exactly four years ago, when this Act was before the Congress. At that time there was no general public interest whatever in this subject.

I remember the vain efforts some of us made in the Senate to engage in debate with the proponents of the McCarran-Walter Bill. For days we spoke to a chamber empty of all Senators except the handful of us opposed to the bill. The sponsors of the Bill gave us the silent treatment. The late Senator Pat McCarran made only two or three appearances on the floor in behalf of his bill. And on those occasions, he spent most of his time quoting excerpts from the pages of the Daily Worker to show that the Communist Party was opposed to the legislation and to suggest that we who fought the McCarran-Walter Act were dupes of the Communist Party.

Today, that is still the main line of supporters of the McCarran-Walter Act—the same tired, threadbare arguments.

Well, those arguments do not attract as much support as they did a few years ago. It is no longer possible for any but the fanatic and the blind to charge that the chief inspiration for the reform of our immigration and citizenship laws comes from the Communist Party.

President Eisenhower has officially recommended to the Congress a series of amendments to the McCarran-Walter Act. Attorney General Brownell and the Justice Department drafted the President's recommendations. It will be interesting to see if the supporters of the McCarran-Walter Act now undertake to show that Mr. Brownell is a dupe of the Communist Party.

Let us get down to specifics. What do we mean by substantial revision of the McCarran-Walter Act? What is wrong with the Act? Do the recommendations made by President Eisenhower cure those defects?

The worst thing about the present law is its spirit—the spirit of fear and suspicion directed against every alien and even against naturalized citizens. It is hard to dig this spirit out of the law by a few amendments. It is a spirit which shows through every title and chapter of the law.

Now, I don't want to leave the impression that I think there was nothing good in the McCarran-Walter Act. It had some good provisions, by which I mean that some few improvements over pre-existing law were made in the 1952 Act. But for every constructive change made in 1952, a score or more of new restrictions were added. The pre-existing law was already cruel and vicious, consisting of a long succession of anti-alien measures adopted by Congress from 1872 to 1952. Some of the worst of these provisions were added in 1950 as part of the blunderbuss McCarran Internal Security Act.

It is sometimes forgotten that the Internal Security Act was originally introduced in Congress as the Mundt-Nixon Bill. In 1950 it was taken over by the late Senator McCarran, who proceeded to use it as the vehicle for a comprehensive set of drastic anti-alien proposals, all of which became law in the summer of 1950, over President Truman's veto.

The bad provisions of present law are beyond listing in a single speech. They number in the hundreds. There are so many that they can only be covered by category.

There is the National Origins Quota System, and the invidious racial and national discrimination which it bespeaks.

There are the impossible and endless requirements for admission. There are over 700 separate grounds for refusing admission to an alien. Some requirements are literally impossible to fulfill. Some are purely mystical, depending on the clair-voyance of the Consular Officer or the Immigration Inspector.

Then there are the many cruel, heartless and unjust provisions for deportation, retroactive in most cases, post facto law in some. There are today 125 separate grounds for deportation.

There are scores of harsh and unreasonable punishments for relative minor misdemeanors. The dread penalty of banishment for resident aliens is provided as casually as a $5.00 fine.

There is no review or appeals procedure for aliens who are denied visas. A Consul's decision is final and non-reviewable by any higher officer, board or court.

These are just some of the categories of evils in the immigration provisions of the law.

There is also the nationality title of the Act. That title, too, is a Pandora's Box.

There are distinctions between naturalized and native-born citizens.

There are the encroachments on the status of citizenship acquired even by birth.

There are the provisions for revocation of citizenship by judgment, without even the requirement of personal service.

This listing is but a rough and almost random selection.

You who are lawyers know that it takes cases and court decisions to give life to the law. Well, I wonder if you know that large sections of the McCarran-Walter Act were drafted after a careful study of every court decision which the Immigration and Naturalization had lost over a 20-year period.

In every case in which a court had given life to the law, the McCarran-Walter Act applied an axe to remove every legal handrail to which an alien might possibly cling, if the immigration service wanted to deport him; and to close every crack and crevice in the law through which an alien might possibly enter, if the Consular Service and the Immigration Service, for whatever reason, didn't want him to enter.

This is the kind of law we now have on our statute books, and have had for the past four years.

This law is one of the greatest talking points against America which the Communist International has. We are held up to ridicule because of this law—a powerful country like ours—sound, prosperous, and stable—but afraid to admit a Polish violinist because he once signed a peace petition, or an Italian shoemaker, because he once belonged to a Communist-dominated labor union.

We have lost more prestige abroad than we can compensate for with the Voice of America. This law, which the Daily Worker criticizes for its own purposes here, is priceless grist for the Communist propaganda mill abroad.

In this law we sacrifice our international dignity. We gain nothing. We lose much.

But what are we to do about it? What amendments do we seek?

I have had a bill pending in Congress for three years, proposing a wholesale revision of the law, eliminating the National Origins Quota System, wiping out the distinctions between native-born and naturalized citizens, restoring citizenship status to what the Founding Fathers conceived it to be, and establishing standards of justice and equity for the treatment of all aliens—those seeking admission here, and those already resident here. I have 12 co-sponsors on my Bill in the Senate. The same bill has been introduced in the House by Congressman Celler, and by 20 or 30 other members of Congress.

I must tell you frankly that it may be very difficult to get my comprehensive bill enacted at this session of Congress. What about President Eisenhower's proposals?

I was greatly gratified by the President's recommendations. They came a long way in the direction I have been pointing for four years. They were better than I had expected.

But the President's proposals were expressed in general terms. They were fine words, as far as they went. The specific bills which have been introduced to carry out the President's general proposals, the Watkins-Keating Bills, fall rather short of the mark set by the President's message.

The President sharply criticized the National Origins Quota System. But the Watkins-Keating Bills retain the National Origins System. The Watkins-Keating Bills still discriminate against Asians, against Jamaicans, and against natives of Trinidad and other islands in the Caribbean. The Administration proposals discriminate against Africans. This discrimination is on the basis of race and national origin.

I cannot, for the life of me, see why we should hold back,

why the Watkins-Keating Bills hold back, from repealing outright the National Origins Quota System.

Those who oppose the elimination of the National Origins Quota System will similarly oppose, with all their might, the limited pooling of unused quotas as provided in the Watkins-Keating Bills. These bills will be characterized as an attack on the National Origins Quota System. If they are going to have the name, why not have the game?

The Watkins-Keating Bills make no change in the second-class status now forced on naturalized citizens. Except for a partial exemption from automatic denaturalization on account of residence abroad, provided for certain veterans of war-time military service, the unjustifiable distinction between naturalized and native-born citizens are left intact in the law. To this continued acceptance by President Eisenhower of the concept of second-class citizenship I cannot and will not agree.

The same type of limited advance characterizes other aspects of the Watkins-Keating proposals. They do not go far enough. They do not remedy some of the major evils in the present law. Some are of questionable merit.

But I shall not discuss them in detail tonight. I have just begun my own intensive study of them. I commend the President again, and the Attorney General, too, for the forward strides they do make in this field. It is a pity that the Administration isn't yet ready to recognize, publicly, the chief evils in the law.

Speaking for myself, I will go along with the President as far as his recommendations go but at the same time press for further advance.

I will not cease to fight for the complete elimination of the racist and bigoted National Origins Quota System.

I will not cease to fight for the elimination of all distinctions between native and naturalized American citizens.

I will not cease my efforts to remove the unnecessary harshness and injustice from all sections of the McCarran-Walter Act.

Let us not deceive ourselves. The opposition is going to be overwhelmingly strong. The fight is not going to be over at the end of this session. It is just going to get under way.

But we can look forward to a joining of the issues. There will be public debate and discussion. I hope that we can get some action in Congress. We must try our hardest, but temporary failure must not discourage us. We have just begun to fight.

Here in Illinois, the home state of Abraham Lincoln, with the echoes of Lincoln Day speeches still resounding, I would like to read an excerpt from a letter which Abraham Lincoln wrote to a friend of his, Joshua Speed—it was more than a hundred years ago.

"As a nation," wrote Abraham Lincoln, "we began by declaring that all men are created equal.

"We now practically read it, 'all men are created equal except Negroes.' When the Know-Nothings get control, it will read 'all men are created equal except Negroes and foreigners and Catholics.' "

That was what Abraham Lincoln wrote, more than a century ago. The Know-Nothings were only a passing political threat in those days—a lunatic fringe. But their modern-day successors are more than a threat today. They have made their mark upon our statute books. They have written some of their philosophy into our laws. What Abraham Lincoln conceived as the worst that could happen has actually happened.

But today we *are* on the road back. We are moving forward. We are no longer on the defensive. We are the ones who are attacking, laying seige to the strongholds of fear and prejudice. We face a stubborn and entrenched enemy. They will not easily surrender. They are not the kind that compromise. We must prepare for a long and hard struggle. We must maintain a resolve neither to tire nor to be diverted.

We must not rest nor relax until the McCarran-Walter Act is completely overhauled, and until the hostile and suspicious spirit of that law is replaced with one consistent with the spirit of America. As I understand that spirit, it is the same as that described ages ago to the Prophet Moses by Him who gave Moses the Tablet. As written, in Leviticus, the Lord said:

"And if a stranger sojourn with thee in your land, ye shall not vex him. But the stranger that dwelleth with you shall be unto you as one born among you, and thou shall love him as thyself."

Yes, to win the fight to humanize and liberalize our immigration and citizenship laws will be a victory to reward all efforts. It will be a victory in the cause of freedom, justice, and humanity. We will all be able to lift our heads higher, when once more we will be able to say:

Here in America is the home of justice, of asylum for the oppressed, of refuge for the persecuted, of opportunity and challenge for the worthy seeking life and freedom in the New World. This is the America we know and love.

We lift up the lamp again beside the Golden Door.

. . . The liberties of our country, the freedom of our civil constitution, are worth defending at all hazards; and it is our duty to defend them against all attacks. We have received them as a fair inheritance from our worthy ancestors: they purchased them for us with toil and danger and expense of treasure and blood, and transmitted them to us with care and diligence. It will bring an everlasting mark of infamy on the present generation, enlightened as it is, if we should suffer them to be wrested from us by violence without a struggle, or be cheated out of them by the artifices of false and designing men. Of the latter we are in most danger at present; let us therefore be aware of it. Let us contemplate our forefathers and posterity; and resolve to maintain the rights bequeathed to us from the former, for the sake of the latter.—Instead of sitting down satisfied with the efforts we have already made, which is the wish of our enemies, the necessity of the times, more than ever, calls for our utmost circumstances, deliberation, fortitude, and preserverance. Let us remember that "if we suffer tamely a lawless attack upon our liberty, we encourage it, and involve others in our doom." It is a very serious consideration, which should deeply impress our minds, that millions yet unborn may be the miserable sharers in the event.

SAMUEL ADAMS

Federal Limitations On Habeas Corpus Writ

By RICHARD L. RITMAN

Member Ritman is chairman of the Decalogue Civic Affairs Committee. The following report was unanimously approved by our Board of Managers on March 23, 1956.

There is presently pending in the 84th Congress a Bill (H. R. 5649) "to amend section 2254 of Title 18 of the United States Code in reference to applications for writs of habeas corpus by persons in custody pursuant to the judgment of a state court." Introduced April 19, 1955 by Congressman Celler it was favorably reported upon, without amendment, and recommended for passage by the Committee on the Judiciary of the House of Representatives on July 18, 1955. It has now been referred to the House Calendar where it bears No. 122.

Section 2254, Title 18, reads as follows:

> "(a) An application for a writ of habeas corpus in behalf of a person in custody pursuant to the judgment of a State court shall not be granted unless it appears that the applicant has exhausted the remedies available in the courts of the State, or that there is either an absence of available State corrective process or the existence of circumstances rendering such process ineffective to protect the rights of the prisoner.
>
> An applicant shall not be deemed to have exhausted the remedies available in the courts of the State, within the meaning of this section, if he has the right under the law of the State to raise, by any available precedure, the question presented."

The proposed bill, H.R. 5649, would add a subsection to Section 2254 as follows:

> "(b) A Justice of the Supreme Court, a circuit judge or a district court or judge shall entertain an application for a writ of habeas corpus in behalf of a person in custody pursuant to a judgment of a State court, only on a ground which presents a substantial Federal constitutional question (1) which was not theretofore raised and determined, (2) which there was no fair and adequate opportunity theretofore to raise and have determined, and (3) which cannot thereafter be raised and determined in a proceeding in the State court, by an order or judgment subject to review by the Supreme Court of the United States on writ of certiorari.
>
> An order denying an application for a writ of habeas corpus by a person in custody to a judgment of a State Court shall be reviewable only on a writ of certiorari by the Supreme Court of the United States. The petition for the writ of certiorari shall be filed within thirty days after the entry of such order."

The Report, No. 1200, submitted by the Committee on the Judiciary, states that "The purpose underlying this legislation is to restrain the abuse of the use of the writ of habeas corpus in the lower Federal courts by prisoners who have been convicted in State courts and who seek to have the action of the State courts reviewed and reversed by the lower Federal courts."

In *Brown* v. *Allen*, 344 U. S. 443, the Supreme Court was called upon to interpret Section 2254. It held that a prisoner convicted in a State court could, after exhausting State court remedies, have the State court proceedings reviewed by filing a petition before a Federal district court judge and that this was so even if the judgment and conviction had been affirmed by the State's highest court and certiorari had been denied by the Supreme Court of the United States.

Proponents of the proposed amendment to Section 2254 suggest (1) that the holding in this case resulted "in a sharp increase in the number of applications to the Federal courts from prisoners convicted in State courts who seek to have the lower Federal courts review the action of the State courts by which they were convicted, on the grounds that their constitutional rights have been denied them in the State court action," (2) that in "only a small number of these applications have the petitioners been successful," (3) that this has "imposed an unnecessary burden on the work of the Federal courts," and (4) that the proper enforcement of State court judgments have, therefore, been delayed.

That the holding in the *Brown* case had substantially the effect noted we do not doubt. There is some doubt, however, in responsible quarters, about the appropriateness of the suggested remedy. These doubts may be briefly summarized as follows:

(1) The proposed Bill, at least as interpreted by some, would have the effect of limiting Federal court habeas corpus suits to only those cases raising substantial Federal constitutional questions not previously raised and determined. If this is so, a large and important class of litigants seeking relief in the Federal courts, those claiming deprivation of due process (viz. failure to receive a fair trial) may be denied resort to this remedy.

(2) Whereas now when the District court denies a habeas corpus petition the petitioner can, as a matter of right, appeal to the Circuit Court of Appeals, under the proposed bill review would be discretionary by the Supreme Court on a writ of certiorari. This would have the effect of curtailing the traditional right of "one review" and would, no doubt, place an additional burden on the Supreme Court which would probably feel impelled to grant a larger number of writs to preserve the "one review" tradition.

(3) Today substantial constitutional questions can always be raised for consideration in habeas corpus actions. Under the proposed bill such questions, if they were not raised at the earliest possible time, will be foreclosed from later consideration. Thus an individual's liberty may well be denied because of a procedural misstep and one of the reasons for the very existence of the writ of habeas corpus will have been emasculated.

(4) Since one of the stated reasons for the proposed amendment to Title 18 is to lighten the burden of work of the Federal courts, it is to be noted that at least in the State of Illinois, where a disproportionate number of Federal habeas corpus cases had been filed prior to 1949, that since the passage in 1949 of the Illinois Post-Conviction Hearing Act there has been a significant reduction in the filing of such cases. In the 5 years prior to 1949 there was

an average of 306 cases a year filed in Illinois Federal district courts. In the 5 years following 1949 the yearly average dropped to 117.

As the House Committee Report itself states "the writ of habeas corpus is one of the most important safeguards of individual liberty." It is important to note, however, that this writ of ancient origin can not long retain its pristine vigour and fulfill its purposes if restricted by legislation which seeks to limit its use in the interest of procedural expediency.

In exercising a value judgment between maintaining what is conceded to be a heavy burden upon our courts, Federal and State, or limiting the availability of a fundamental constitutional safeguard against the possible abuse of governmental power and authority, we do not hesitate to suggest that the former course commends itself as a choice most consistant with our obligations both as lawyers and as citizens in a democracy.

For the above stated reasons we recommend that the Board of Managers of The Decalogue Society of Lawyers adopt this report and that its conclusions be communicated to such members of Congress as is deemed appropriate.

TRIBUTE TO JUDGE FISHER

Editorial

Courtesy, Chicago Sun-Times

The old virtues still pay off. It won't be a time for moralizing, but if a moral is to be drawn that is the one which stands out clearest in a dinner next Sunday honoring one of Chicago's foremost citizens.

Horatio Alger would have liked his story.

Harry M. Fisher was 11 years old when he came to this country with his parents from Lithuania in 1893. He became a newsboy, later worked as a capmaker while studying law in the evenings. He was admitted to the bar in 1904, elected Municipal Court judge in 1912 and in 1921 was chosen for a Circuit Court judgeship. He has held that position ever since.

But the important thing about Judge Fisher is not that he became and remained a judge. It is that he wanted to make things better. In 1905-07 he instituted Juvenile Court reforms which are in effect to this day. His hand is visible in much of the forward-looking social legislation in Illinois and the nation. When friendship to labor was not as popular as it is today, he was a friend to labor.

In another field he has been equally active and effective. He was one of the first exponents of the creation of an independent Israel, and has carried his enthusiasm for this cause to the present.

It is little wonder, in view of all this, that 800 prominent Chicagoans will honor Judge Fisher Sunday, before his departure for a two-month trip to Israel, or that one of the chief speakers at the dinner will be Abba Eban, Israel's ambassador to the United States.

Applications for MEMBERSHIP

MARVIN M. VICTOR, *Chairman Membership Committee*

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CONDOLENCES

The Board of Managers of our Society expresses its profound sympathy to past president Roy I. Levinson and his family, upon the death, February 28, of his mother Mrs. Sarah Levinson.

She died at the age of eighty-six.

SORROW

The Decalogue Society of Lawyers announces with deep regret the death on March 11, 1956 of the following members:

David L. Leeds H. Bernard Krulewitch

MORE ACCLAIM

The following comments on our choice of Senator Herbert H. Lehman for our Award of Merit for 1955 were received too late for publication in the last issue of The Journal.

...Senator Lehman's service to the cause of democracy and the general welfare of the people is indeed outstanding and unswerving, and I rejoice, along with all his many friends, that this recognition has come to him.

DEAN ACHESON

* * *

I am confident that in future years as I look back upon my associations in the United States Senate my friendship for and admiration of Senator Lehman will have a special significance. In honoring him you honor the things he stands for and these, throughout his career, have been the very heart and soul of the best traditions of American public service.

SENATOR HUBERT H. HUMPHREY
Minnesota

* * *

Measured in terms of public service as Governor of the State of New York and as United States Senator from New York he richly deserves the award. He has earned for himself an honored place in the history of our times.

More than that he is a man of unflinching devotion to the common good of all Americans. He has been always foremost in the fight for those things which exemplify the liberal and humanitarian spirit.

COL. JACOB M. ARVEY

* * *

...In his more than 25 years of public service, he has distinguished himself above all else as a humanitarian whose concern for the needs of the people has transcended the boundaries of state, creed, nationality, and color. His tireless and valiant championship of the rights of minorities, the dignity of mankind and the liberation of the oppressed have endeared him to the hearts of people throughout the world...

SENATOR THOMAS C. HENNING, JR.
Missouri

* * *

I can't imagine a better selection for the Award than Senator Lehman. His outstanding work for freedom and humanity makes him the most deserving person I can think of.

MARSHALL FIELD

* * *

...The State of New York should be proud of its Senator and the people of America generally should be grateful that the Empire State has given the nation much a valiant citizen.

JOHN C. MELANIPHY
Corporation Counsel
City of Chicago, Law Department

* * *

The presentation of the 1956 award to United States Senator Herbert H. Lehman of New York, is surely well-merited recognition of distinguished service to democracy and to the general welfare of this nation and its people. I am glad that Senator Lehman will accept the award in person. Chicago will be proud to have him as a visitor to this City.

RICHARD J. DALEY, Mayor
City of Chicago

Surely all of us who are deeply concerned about our present immigration policies can only be grateful to you for bringing Senator Lehman to Chicago.

ESTHER DAVIS
Woman's American Baptist
Home Mission Society

* * *

...Senator Lehman has given much and ranks foremost with many of our outstanding liberals for his work and service in the field of human relations. Your choice is commendable and praiseworthy.

JAMES T. HORTON, President
Cook County Bar Association

* * *

Senator Lehman is a colleague of mine from the adjoining State of New York and while we belong to different parties, I have always had the highest regard for him as a man and as an eminent Governor of the State of New York and a most sincere and conscientious member of the United States Senate.

SENATOR H. ALEXANDER SMITH
New Jersey

* * *

At a time when most men are ready to retire from active life, Senator Lehman undertook a long and dedicated career of public service. Throughout that remarkable career he has followed without deviation the highest standards of duty and his own devotion to principle and deep-seated sense of justice.

SENATOR HENRY M. JACKSON
Washington

* * *

The name of Herbert Lehman has become synonymous with democratic causes and with a keen interest in the public welfare. Senator Lehman's courage and dedication to the principles of individual liberty are not simply outward manifestations adopted for political advantage or for personal aggrandizement but rather are true measures of the Senator's character...

SENATOR JOHN F. KENNEDY
Massachusetts

* * *

I congratulate your organization in presenting to a distinguished American an 'Award of Merit' each year for outstanding service, and its award to Senator Herbert Lehman for 1955.

SENATOR GEORGE M. MALONE
Nevada

* * *

Personally, I can think of no other distinguished American more worthy than Senator Lehman to be the recipient of your Award of Merit.

GEORGE MEANY, President
American Federation of Labor and
Congress of Industrial Organizations

* * *

In bestowing such an honor upon Senator Lehman, your organization has recognized Senator Lehman's achievements in a life devoted to success in business, faithful public service and fidelity to the principles of his great faith.

SENATOR HOMER E. CAPEHART
Indiana

* * *

Senator Lehman's distinguished record is its own best comment.

DEAN EDWARD H. LEVI
Dean of the Law School
University of Chicago

The honor is worthily bestowed because Senator Lehman is a great public servant.

SENATOR SAM J. ERVIN, JR.
North Carolina

* * *

I first became closely acquainted with Herbert Lehman while he was serving as Governor of New York State. In everything he said and did, Governor Lehman demonstrated sincere devotion to the public good and complete political unselfishness. Through his leadership the people of New York State were able to obtain, within a few years, the greatest body of social welfare legislation of any State in the Union.

When he went to Washington as United States Senator from New York, Herbert Lehman carried forward the progressive principles which guided his career in Albany. His has been an ever faithful and unfaltering voice for justice to all and for consideration of the needs of the common man.

GEORGE MEANY, President
American Federation of Labor and
Congress of Industrial Organiaztions

* * *

The Senator's many years of outstanding service and his distinctive contributions to the cause of democracy and the general welfare of the people, richly deserve the tribute that he is to receive.

BERNARD J. SHEIL, D.D.
Auxiliary Bishop of Chicago

* * *

He is a distinguished senator and an outstanding American. His illustrious career as senator from the state of New York has made his one of the most beloved public figures.

HARRY B. HERSHEY
Chief Justice
Illinois Supreme Court

* * *

You have certainly chosen a remarkable man in Senator Lehman to receive your Award and he will stand well beside all the others who have been chosen before. Senator Lehman has been a remarkable man over a long period of time and has shown in the Senate judgment, character, and courage.

ELEANOR ROOSEVELT

* * *

Senator Lehman's name is an illustrious addition to the roster of renowned citizens who have received the annual award in former years.

HARRY M. FARIS, President
Chicago Chapter
The Federal Bar Association

* * *

...Through the years he has been representative of that forward looking group of people who are on the alert to preserve the rights and liberties of all the peoples of the world.

JUDGE CHARLES S. DOUGHERTY
Circuit Court of Illinois
Cook County

* * *

...I have had the pleasure of knowing Senator Lehman and of watching his career over a period of many years. He is a great man and a great American. He has understanding, humility, and vast courage. I hope that he will continue in public life for many years to come.

BARTLEY C. CRUM

The Decalogue Society of Lawyers honors itself in bestowing its annual award upon that public-spirited, humane, wise and benevolent law-maker, Senator Herbert H. Lehman.

FELIX FRANKFURTER
Associate Justice
United States Supreme Court

* * *

I can think of no more deserving American citizen than my good friend and able colleague, Herbert Lehman, to receive this great honor. It has been a real privilege to work with him in the Senate; to observe his inspired leadership in the fields of public welfare, immigration, labor and foreign affairs; and to know that his brilliant record in the cause of our democracy will long be remembered by the American people.

SENATOR JAMES E. MURRAY
Montana

* * *

Certainly, throughout his long and distinguished career as soldier, educator, diplomat, philanthropist, statesman, and public servant, Senator Lehman has indeed served well the interests of America's people. Moreover, this gentleman, whom I am privileged to call friend and colleague, has advanced immeasurably the truly worthwhile cause of democracy, human rights and good government. . .

SENATOR EARLE C. CLEMENTS
Kentucky

* * *

Few men in public life in America deserve the highest honors that a society like yours can bestow upon them more than does Senator Lehman. Throughout his entire public life he has added to the subtlety of his intellect all of the graces of the human heart.

PERCY L. JULIAN

* * *

He is a champion of human rights, protector and defender of the oppressed and a great humanitarian. His fight against the passage of the Walter-McCarren Act was a sterling example as to the kind of man he is and what he stands for.

FRANK BENESTANTE, President
Justinian Society of Lawyers

* * *

...Senator Lehman truly deserves to be honored, in the words of your Award, 'for outstanding service to the cause of democracy and the general welfare of the people.' His career in the Senate is a testament to that service. Two outstanding examples which should particularly be mentioned are his unyielding battles against the inequities of the present immigration law and against the undemocratic procedures of the loyalty-security program. . .

...To fight the enemies of mankind, to fight to make men free, has ever been the aim of the great statesman whom you are honoring...

SENATOR HARLEY M. KILGORE
West Virginia

ISADORE BROWN

Member Isadore Brown, Master in Chancery Circuit Court, was named General Counsel for the Exchange National Bank of Chicago.

AMERICAN PRECEDENT IN THE SUPREME COURT OF ISRAEL

Digest of Article by Uriel Gorney,
published in the Harvard Law Review—May 1955

Condensed by member LEONARD L. LEON

The sources of Israeli Law are many and varied. There is the Ottoman law based largely on Moslem law, the religious laws of the Jewish, Moslem and Christian communities, the ordinances enacted during the Mandate, new laws enacted by the Knesset (Parliament) of Israel after the establishment of the state, and the common law of England.

English common law had first been introduced into Palestine in 1922 and many doctrines and principles of the common law and equity have become firmly embedded in the intricate pattern of Israel's legal system. Among the important doctrines so introduced were *stare decisis* and the related principle that an inferior court will follow the precedents of a higher tribunal. The common law of England continues, insofar as local laws do not "extend or apply," to form part of Israel's legal system and the doctrine of precedent has continued in full force and effect.

Since the establishment of the State there is a definite trend towards citing, and relying on American precedents. It is in the sphere of constitutional law that they have made their major contribution.

Israel as yet has no written constitution. This absence, however, does not connote the absence of constitutional restraints on the executive or the absence of effective safeguards of the rights of individuals. The Supreme Court of Israel is invested with important constitutional functions. The jurisdiction of the Supreme Court is residuary, and the determination of its boundaries may raise problems of interpretation and weighing of interests similar to those encountered by federal courts in the United States. The particularly vital area of freedom of speech may serve to illustrate these similarities.

It is generally accepted in western democracies that the right of freedom of speech is not absolute and must be exercised in conformity with, and without infringement of, other freedoms. This is also the law in Israel today. Under the Press Ordinance the Minister of the Interior is empowered to *suspend* the publication of any newspaper for such period *as he may think fit* if any matter therein is, in his opinion, *"likely to endanger the public peace."* A suspension is subject to review by the Supreme Court. If the Minister is found to have acted in excess of his authority or to have misinterpreted the provisions of the law, his order will be set aside.

Ruling on an order suspending the publication of two communist newspapers for fifteen days, the Supreme Court decided adversely to the Minister, citing the famous statement of Justice Homes in *Abrams* v. *United States:*

> When men have realized that time has upset many fighting faiths, they may come to believe even more than they believe the very foundations of their own conduct, that the ultimate good desired is better reached by free trade in ideas—that the best test of truth is the power of the thought to get itself accepted in the competition of the market and that truth is the only ground upon which their wishes safely can be carried out.

The court added that, in the words of Justice Brandeis, "the final end of the State was to make men free to develop their faculties; and that in its government the deliberative forces should prevail over the arbitrary." The Supreme Court further declared that the censorship statute was left on the statute books by the Israeli legislature only because of the state of emergency into which the country had been plunged since its establishment, and such a law should be interpreted restrictively.

It is reassuring to find the highest court of a small country, still in a state of emergency, adopting for the guidance of its executive, liberal principles formulated in the United States, at a time when even in the country of their origin, it is sometimes felt that they should be modified in view of present conditions.

The increasing importance of American precedent in the Israeli legal system, though of recent origin, is bound to continue. The reasons are fairly obvious; America's and Israel's legal systems both have their roots in the common law of England. American precedents are validly cited as authorities, along with textbooks and judgments of the Commonwealth countries, in support of arguments before Israel courts.

Six years ago, a new Supreme Court was appointed to take the place of the Palestine Supreme Court which was composed mainly of British Judges. The new Justices do not have the same cultural, national, and emotional ties with England as their predecessors. Their outlook is much broader; they are therefore inclined to turn for guidance to other legal systems, and among these systems the American occupies a prominent place.

Nation's Aged and Housing

By ALLEN DROPKIN

Member Allen Dropkin, former assistant State's Attorney, Cook County, is presently assistant counsel, subcommittee on Housing and Currency committee, United States House of Representatives.

A major problem confronting the nation today, and one to which the bar should devote some careful thought and attention, is providing adequate housing for elderly persons at a cost they can afford to pay. Because of the increasing life span, the numbers of our senior citizens are constantly growing. It is indeed an inconsistent philosophy which, on the one hand acclaims the medical, social and economic advances which have contributed to increasing longevity and, at the same time callously disregards the concomitant problems which many older persons will inevitably face.

During the past few months, much local and national attention has been called to this growing problem. On January 17, 1956, President Eisenhower, in his annual budget message, asked the Congress to change the housing laws so it would be easier for elderly persons to buy or rent homes, stating:

> "As the number of older people in our population has increased, action to meet their special housing needs has become highly important."[1]

Recently, The Chicago Tribune informed the public that a new public housing program for constructing specially designed apartments for elderly persons was being planned by the Chicago Housing Authority. Quoting John R. Fugard, outgoing chairman of the CHA, the article stated that little or no attention has been paid to designing units for couples or individuals over 65 years of age with low income.[2]

Perhaps one might ask why all this attention presently is being focused upon the problem of providing housing for that segment of our population that has reached the "golden age" of 65 years or over. One might also ask why this problem has become of vital concern to the Nation and the Congress. It is the intention of this article to provide some answers to these questions and to reveal what action and decisions have been made by the Congress during the past year.

Between 1900 and 1950, while the population of the United States was doubling, the number of people 65 years old or over increased four times. In 1900, there were 3 million persons, or one in 25, aged 65 or over, while in 1950 there were 12 million, or one in 12. Proportionately persons 65 and over represented 8% of the population in 1950. Since 1950 an additional 2 million persons 65 or over have been added to the population and their number is presently increasing at the rate of 400,000 per year. By 1975 it is estimated, by the Bureau of the Census, that there will be 21 million persons 65 or over representing approximately 11% of the total population.

Of the present aged, 52% are women and the proportion of women to men increases as one proceeds upwards on the age scale past 65. 54.4% of the women aged 65 or over were widowed as opposed to 23.8% of the men.

Income-wise, our elderly citizens are faring very poorly in relation to the rest of the population. 64% of all households with heads 65 or over have annual incomes under $2,000 and of those people 65 or over living alone or with non-relatives, over 85% have annual incomes under $2,000.

These few statistics demonstrate the problem of providing our elderly citizens with decent and safe housing within their price range and also point up the reason for the need for Congressional action in this field—action that has been long in arriving but which has been urgently requested.

Recognizing that this pressing problem must be remedied, Congressman Barratt O'Hara (D-Ill.), on February 10, 1955, introduced a bill[3] to provide low-rent public housing for the nation's aged. The bill, the first of its kind ever to be introduced in Congress, would have initiated, during the next five years, the construction of 250,000 dwelling units especially equipped and designed for elderly persons, both families and individuals. This bill was rapidly followed by similar bills[4] of other Congressmen and shortly thereafter there was introduced in the Senate companion legislation.[5]

In presenting his bill for consideration, Congressman O'Hara called attention to the plight in which persons 65 years or over with little or no income find themselves, stating:

> Housing is one of the most pressing needs of our older citizens. The aged are often left with relatively low incomes because only a small percentage of them are at work, most of them are living on savings or on pensions, . . . Because of their income situations they usually cannot afford new, expensive, attractive homes.[6]

Early last year a special Subcommittee on Housing of the House Banking and Currency Committee was established by House Resolution, with Congressman Albert Rains (D-Ala.) as Chairman. The purpose of the Subcommittee is to study the entire housing situation in the United States and to devote particular attention to housing for elderly citizens. An assistant counsel to the Subcommittee was appointed, charged with the responsibility of submitting a comprehensive report on the need for legislation to provide adequate housing for elderly citizens. Hearings on the entire housing problem have been held in Washington, D. C., New York City, Philadelphia, Chicago, Los Angeles and Cleveland, and though its final report has not been written, certain definite conclusions have been arrived at and suggested legislation prepared.

Based upon legislation enacted by the Canadian Government in 1954, a bill[7] was introduced on March 12, 1956, by Congressman Rains to provide 50 year government loans for 100% of development cost to non-profit organizations to be used in the construction of housing for elderly persons. The loans are to bear interest at a rate not in excess of 3½%. Similar legislation[8] enacted in Canada has proved of tremendous aid to limited dividend corporations in construction of housing for the elderly. In addition, each Canadian province has enacted its own local legislation to

further aid such projects. The newness of this program prevents any concrete evaluation at this time but early indications are very favorable.

Here in the United States the program for housing elderly persons is beginning to get under way, many years after other countries of the world have recognized the need. The Rains bill[9] has excellent chances of being approved by the House of Representatives for inclusion in an omnibus housing act and a variation of Congressman O'Hara's proposal is also being given favorable consideration. These two measures, when coupled together, will go far towards reducing the growing numbers of elderly persons in need of adequate shelter.

The lawyer, as a recognized leader in civic affairs, owes a duty to be informed and cognizant of all facets of community problems. The above report has been an attempt to acquaint the bar with this pressing need and the suggested solutions that have been presented and to elicit support and interest. No final plans have been drawn, and any suggestions or views upon the subject, which is fast becoming of vital concern to the entire nation, would be most helpful and greatly appreciated.

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[1] United Press release, Chicago Daily News, January 17, 1956.
[2] The Chicago Tribune, March 13, 1956, pp. 22.
[3] H.R. 3919.
[4] H.R. 3920-3929.
[5] S. 1642—Introduced by Senator Sparkman on March 10, 1955.
[6] Speech before United States House of Representatives,
[7] H.R. 9881.
[8] 2-3 Elizabeth II, Chap. 23, Sec. 16—"The National Housing Act of 1954."
February 10, 1955.
[9] H.R. 9881

CORRESPONDENCE

Member Zeamore A. Ader writes:

It has been my opinion that so fine a publication as The Decalogue Journal should be included in the American Association of Law Libraries, *Index to Legal Periodicals*. I therefore took action toward this end, and am pleased to say that Dorothea A. Flaherty, Editor of *Index to Legal Periodicals*, by letter of February 29, 1956, wrote to me as follows, "The Index Committee of the *Index to Legal Periodicals* has voted to include the Decalogue Journal in the Index."

I suggest that the Index be put on our mailing list. The address is:

American Association of Law Libraries,
Index to Legal Periodicals,
Harvard Law School Library,
Cambridge 38, Mass.

The Index has been placed on our mailing list. Thank you, Zeamore. —Editor.

SAMUEL BERKE RE-ELECTED

Member Samuel Berke, Master in Chancery Superior Court, was re-elected president of Jerome D. Solomon Memorial Research Foundation.

INTERNATIONAL BAR CONFERENCE APRIL 16th AT DALLAS, TEXAS

Members of our Society interested in attending the Ninth International-American Bar Conference on April 16, in Dallas, Texas, should communicate with past president Jack E. Dwork, 77 West Washington Street, regarding credentials and hotel reservations. Several members of our Society have already registered with Mr. Dwork, as delegates to the Conference.

Legal scholars of great renown from the United States, Latin America, and Europe are scheduled to participate in this conference. The agenda includes the reading of important papers and deliberations on many facets of International Law.

The Decalogue Society of Lawyers is a member of The Inter-American Bar Association.

BLUE CROSS AND BLUE SHIELD ENROLLMENT, FROM APRIL 1 TO APRIL 30, ONLY

Members are advised that commencing April 1, 1956 and extending to April 30, 1956, registration will be reopened for enrollment in the Blue Cross and Blue Shield Insurance Plan for hospital and medical care. Members now holding Blue Cross may apply for the Blue Shield Medical Care Plan. The insurance will be in force commencing June 1, 1956.

The rates are as follows, including 25c service charge for handling the Blue Cross group only, and 50c service charge for handling the Blue Cross and Blue Shield Group:

	Blue Cross Rate Quarterly	Blue Cross and Blue Shield Quarterly
Single member	$ 7.21	$ 9.71
Family member	19.21	26.96

Members desiring to enroll are requested to send their names and addresses to the Decalogue Headquarters so that an application may be sent and processed in ample time. Please indicate classification that you are interested in: Blue Cross, Blue Shield, single, or family, and mail to the Decalogue Society Headquarters, 180 West Washington Street, Chicago 2, Illinois.

Alec E. Weinrob is chairman of the Decalogue Society Insurance Committee.

Organization Awards To Victor and Weinrob

One or more members of The Decalogue Society of Lawyers are honored each year for outstanding contributions to the welfare of our bar association. Messrs. Victor and Weinrob whose work in 1955 merited special recognition will receive their inter-organization awards of commendation at the Society's annual meeting the evening of May 23rd, at the Chicago Bar Association headquarters, 29 So. LaSalle Street. Their biographical sketches follow:

MARVIN M. VICTOR

Member of our Board of Managers, Marvin M. Victor, was born in Chicago in 1925. He is a graduate of Chicago public schools, and Lake View High School. Victor received his L.L.B. from De Paul University Law School and was admitted to the Illinois Bar in 1950. He served two years in the United States Air Force.

He is a former president of the Sephardic Congregation Community Synagogue, and is presently a member of its Board.

An active member of our society from the time that he had joined it, Victor served last year as chairman of the Decalogue Conservation committee, and this year he is our membership chairman. He is married and resides with his wife, Blanche, daughter Gayle, and a son Stephen, at 7914 Evans Avenue.

Alec E. Weinrob, member of our Board of Managers, was born in Russia and came to Chicago when nine years of age. He attended the Hebrew Theological College and Northwestern University.

ALEC E. WEINROB

He received his law degree from John Marshall Law School in 1926 and was admitted to the Illinois Bar the same year.

From 1928 to 1937 he was a law partner of member Hyman Feldman, now a judge of the Municipal Court.

Weinrob is a former president of the Humboldt Boulevard Temple and presently a member of its Board of Directors. He has been active as an organizer and a participant in the Great Books Course Educational movement in Chicago for the past eight years and is chairman, and a co-leader in The Decalogue Society Great Books Course. He is a member of the executive committee of the Chicago Council for Great Books.

Weinrob, an active member of our Society for many years, serves on several committees and is chairman of The Decalogue Insurance Committee.

He is married and resides with his wife Evelyn, son Julian, and daughter Betzena, at 4520 North Mozart Street.

BOOK REVIEWS

THE ADMINISTRATION OF CRIMINAL JUSTICE IN THE UNITED STATES. Plan for a survey to be conducted under the auspices of the *American Bar Foundation.* American Bar Foundation, Publishers. 193 pp. $2.00.

Reviewed by IRWIN COHEN

Member Irvin Cohen is a former United States Attorney at Chicago, a former First Assistant United States Attorney, and former Chief Counsel of the Emergency Committee on Crime of the Chicago City Council.

This small but meaty volume describes in detail what the American Bar Foundation's Advisory Committee for the Survey of the Administration of Criminal Justice proposes to do. It is expected that the project will take five years to complete although interim reports will be available. The project is a fact finding survey to be conducted in representative jurisdictions, both state and federal, throughout the nation. A pilot study covering the state of Wisconsin is already under way, financed by a $450,000 grant from the Ford Foundation.

The survey will be divided into four fields: (1) The administration and operation of the police agencies; (2) the prosecution and defense of criminal actions; (3) the administration and operation of the Criminal Courts and (4) probation, sentence and parole.

Field research teams will be organized, trained and sent into the various jurisdictions to study, observe and describe the operation of the system of criminal justice. Their reports will form the basic research product and will be analyzed and evaluated by the headquarters staff headed by outstanding specialists in the respective areas.

The study will not inquire into crime causation, nor will it be concerned with the formulation of substantive criminal law except in those cases where the definition of crime may create special problems of procedure.

It is expected that intensive reports in areas of special interest will be prepared having to do with the cost of law enforcement, methods for the selection of judges, the operation of penal institutions, the influence of the press, radio and television upon the conduct of criminal trials, the provision of counsel for the indigent offenders and other subjects which may be suggested by the research materials produced by the survey. The final task of the headquarters staff will be the drafting of legislative and administrative proposals recommended for the improvement of the administration of criminal justice.

This reviewer is impressed with the insight displayed by the draftsmen of the topical outlines for research found in the appendices. In the field of prosecution and defense of criminal actions, for example, answers will be sought for these questions: What standards or policies guide prosecutors in the exercise of their discretion whether or not to commence criminal proceedings? In their relations with the press and other news services what policies do prosecutors follow as to disclosure of evidence? How do they resolve the conflict between the right to a fair trial and freedom of the press? What pressures are exerted by the press? To what degree do prosecutors exercise practical control over grand juries? Is the grand jury utilized "to wash out" undesirable or delicate cases?

It is dangerous to venture a prediction at the very beginning of the study. The project is an ambitious one and it is obvious from this volume that an enormous amount of preliminary planning has been done. That those in charge of the study are fully aware of the problems ahead appears evident when they state, " . . . research in our field is beset with all of the difficulties which are common to research in the field of the so-called social sciences, such as multiple causation, the difficulty of controlled experiment, subtle detractions from objectivity . . ." It would seem from the calibre of those in charge of the project and from the questions they ask that the end result will not be a massive compilation of sterile data, nor a monumental elaboration of the obvious accompanied by all the statistical trappings of spurious scholarship. On the contrary, a genuine contribution to the field would seem in the offing.

TEEN-AGE GANGS, by Dale Kramer and Madeline Karr. Henry Holt. 243 pp. $3.00.

By ELMER GERTZ

I must confess that I had expert assistance in writing this review. I thought originally that I would skim through the book; for it seemed at first glance like a potboiler to match the headlines of this afternoon's Hearst papers. Then I found myself reading every word, from the pious foreword by Senator Estes Kefauver, through the three taut tales of teenage gang chieftains, to the sociological afterword; reading with mounting interest and deep disquietude. This is not a catch-penny trifle, I said to myself; but is it as authentic as the sincerity of the co-authors would indicate? It is as true of Chicago, for example, as of New York City, the scene

of its tense dramas of turbulent boyhood? Do teen-age gangsters use dope in its various forms to the extent here indicated? These and a dozen other frightening questions occurred to me.

My personal experience with juvenile vandalism was of short but painful duration; some of our windows had been broken, some plants in our garden trampled down; our supply of liquor burglarized during our spring vacation. I had my own favorite teen-ager to handle, my nineteen-year old son, a blend of intellectual vagabondage, physical and emotional ups and downs and star-pointed consecration. I showed him the book and he was as stirred by it as I had been. He pronounced it to be essentially faithful to the facts as he knew them from close observation in and out of school; but he, too, was dubious about the incidence of drug addication, thinking as I did that the drama was overdone in that respect.

If these three stories were published as works of fiction, they would be proclaimed widely for their insight, characterizations, conversation and narrative skill, and general verisimilitude. All three, and particularly the unforgettable drama of the doomed boy called the Emperor Paro, are tense and terrible in the inevitability of the tragedies they unfold. This Paro was a Puerto Rican boy of brains, character and ability; yet he went through his young life as the leader of juvenile hoodlums and died suddenly and unsung because he collided with the older racketeers. His career was essentially vicious, but he, like many other teen-age, gangsters, was basically decent. How do such human paradoxes come about? This book, which should be read by all who would do their share to make this mad world safe for our children, indicates some of the answer. Paro lacked love, camradeship, understanding, encouragement, and guidance at home; his parents offered the counterfeit substitutes for them in the form of coldness, hostility, nagging, preaching, demanding self-righteousness. He had nothing to do at home or abroad, except to nurse his many grievances. He found solace only in his sad world of those similarly afflicted. It is time, indeed, that the world is made a more habitable place for the young.

MEYER WEINBERG ON MATRIMONIAL LAW

Member of our Board of Managers, Meyer Weinberg, addressed the Justinian Society on March 8 on "The Effect of Current Legislation on Matrimonial Litigation."

Mr. Weinberg is the author of *Illinois Divorce, Separate Maintenance, and Annulment.*

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Learning is an ornament in prosperity, a refuge in adversity, and a provision in old age. —ARISTOTLE

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MICHAEL M. EISENBERG

Frank DiCanio, Executive Librarian of the Chicago Law Institute, writes that member Michael M. Eisenberg of Miami, Florida, came through with the missing numbers 2 and 3 of Volume 1 necessary to complete the Library's five year set of The Decalogue Journal.

Thank you, Michael.

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Were I on the bench . . .

"If men were horses, beggars would ride,"
And tramps become sailors, were wine in the tide;
And all would be changed if "if" we could clench,
So here's what I'd do,
Were I on the bench.

The Lawyers I'd greet with "How-do, old chap;
Yes, yes, I've forgotten that legal scrap;"
'Twixt bench and bar there's no wid'ning trench,
I'd treat all as friends,
Were I on the bench.

I'd be gracious to all, so drop your reserve;;
I'd talk so a man wouldn't lose all his nerve;
I'd award liberal fees—no cause to retrench;
There'd be money galore,
Were I on the bench.

Res inter alios acta (translated,
Things between others were demonstrated);
I'd abolish all Latin, and also the French;
There'd be English alone,
Were I on the bench.

If a case took two hours or longer to try
(For talking is bound to make a man dry),
A recess we'd take, our thirst we would quench;
I'd guard well your health,
Were I on the bench.

If counsel were young and apt to be beat,
I'd beckon him up to the judge's seat,
And give him advice so success he could wrench;
Now, would you be happy
Were I on the bench?

I'd abolish opinions if made at great length,
They take up so much of a law student's strength;
Then law'd be a mistress and no ugly wench;
But all with this IF
Were I on the bench. . .

—HARRY A. BLOOMBERG
FROM THE LAWYER'S ALCOVE